

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mary Johnson,
Petitioner-Appellant,

v.

Sioux County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 13-84-0838
Parcel No. 13-35-477-038

On October 28, 2013, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Mary Johnson was self-represented and requested a written consideration. County Attorney Coleman McAllister represented the Sioux County Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Mary Johnson is the owner of an unimproved residential site located in the Thunderbird Addition in Hawarden, Iowa. According to the property record card the parcel is 2.51 acres.

Johnson protested to the Sioux Board of Review regarding the 2013 assessment of \$7290. Her claim was that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). She asserted the land should be valued at the 2002 assessment amount. She beleieved it has no value and stated that she offered the property to the City of Hawarden, but it has no interest in it. The Board of Review granted Johnson's request, in part, and lowered the assessment to \$3770.

Johnson then appealed to this Board reasserting her claim. She believes the property should be assessed at \$1750 or less.

On her appeal form Johnson stated “the parcel listed above has no value except for drainage of the area surrounding it. I have addressed this issue to the Sioux County Board of Review on at least three different hearings over the years.” Johnson also stated the only reason she keeps the property is because the development is on the entrance to Hawarden and she wants to be able to control what it looks like. She does not believe the land is saleable. Further, she asserts she would gladly give the property to the city of Hawarden or Sioux County.

Johnson also submitted two pictures of the property that show standing water. Johnson’s appeal explains the water occurred in May 2013 after a 2-3 inch rain.

De Wayne Dykstra, a member of the Sioux County Board of Review, submitted a letter on its behalf. (Exhibit 1). The letter states Ms. Johnson did not request to meet with the Board of Review, so no hearing was scheduled. The letter also comments on Johnson’s photos of the flooding on her property. Dystra says in late May 2013, the area received 3-4 inches of rain and with this amount in a short period of time some ponding occurred in low lying areas of the property. He further states this is the exception and not the rule, and there were few low lying areas that did not have water.

The Sioux County Board of Review also submitted property record cards for three vacant land sales in Hawarden. (Exhibit 3). The first property, with no listed address, is 1.497 acres. It sold in January 2012 for \$15,000, and is assessed for \$5150 for 2013. The second, at 720 Avenue B, is 0.405 acres, and sold in May 2011 for \$1000. It is assessed at \$1850. The third property, with no listed address, is 0.798 acres. It sold in November 2012 for \$7000, and is assessed for \$7500 for 2013. All of these properties are classified urban residential and are vacant land similar to the subject property. However, they are located in different subdivisions of Hawarden and are of various sizes. All of these sales appear to arms-length and are indicative as to the value of property in Hawarden.

Despite Johnson's claim, all property has some value and she has not presented any evidence to show her property is over-assessed.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

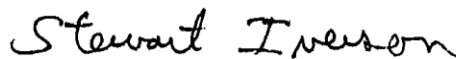
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the

assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property's correct value. *Boekeloo*, 529 N.W.2d at 276-77. Johnson has not provided any evidence of the market value of the subject property as of January 1, 2013.

THE APPEAL BOARD ORDERS the assessment of Mary Johnson's property located in the Thunderbird Addition in Hawarden, Iowa as of January 1, 2013, set by the Sioux County Board of Review, is affirmed.

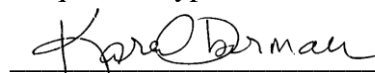
Dated this 18th day of November 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

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